

APPEAL NO. 152250
FILED JANUARY 13, 2016

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 19, 2015, in Dallas, Texas, with presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the compensable injury of (date of injury), extends to a left shoulder infraspinatus tendon tear, left shoulder supraspinatus tendon, left elbow contusion, left hip contusion, cervical sprain, left knee sprain, and right knee sprain; (2) the compensable injury of (date of injury), does not extend to a cervical strain, left knee strain, and right knee strain, and (3) the appellant (claimant) has had disability from the (date of injury), compensable injury beginning on February 11, 2015, and continuing through the date of the CCH. We note that the extent-of-injury determination regarding the condition of left shoulder supraspinatus tendon contains a clerical error that will be discussed below.

The claimant appealed that portion of the hearing officer's extent-of-injury determination that was adverse to her, contending that portion of the extent-of-injury determination is against the great weight of the evidence. The respondent (carrier) responded, urging affirmance of that portion of the extent-of-injury determination.

The hearing officer's determinations that the compensable injury of (date of injury), extends to a left shoulder infraspinatus tendon tear; left shoulder supraspinatus tendon; left elbow contusion; left hip contusion; cervical sprain; left knee sprain; and right knee sprain, and that the claimant has had disability from the (date of injury), compensable injury beginning on February 11, 2015, and continuing through the date of the CCH were not appealed and have become final, as reformed, pursuant to Section 410.169.

DECISION

Reformed in part, affirmed in part, and reversed and remanded in part.

The parties stipulated that the carrier has accepted a (date of injury), compensable injury in the nature of a left shoulder strain, a left hip strain, and a lumbar strain. The claimant testified that she was injured when she slipped on a mat and fell to the floor.

The extent-of-injury issue before the hearing officer as added upon the agreement of the parties included the condition of a "left shoulder supraspinatus tendon tear." The hearing officer made clear in the Discussion portion of the decision that he

found the compensable injury extended to a left shoulder supraspinatus tendon tear. However, the Decision and Order section, Finding of Fact No. 3, Conclusion of Law No. 3, and the Decision all reference a left shoulder supraspinatus tendon and omit “tear.” We reform that portion of the Decision and Order section, Finding of Fact No. 3, Conclusion of Law No. 3, and the Decision to read “left shoulder supraspinatus tendon tear” to reflect the correct extent-of-injury condition as properly before the hearing officer.

That portion of the hearing officer’s determination that the compensable injury of (date of injury), does not extend to a cervical strain, a left knee strain, and a right knee strain is supported by sufficient evidence and is affirmed.

The extent-of-injury issue also included the condition of an aggravation of degenerative changes to the lumbar spine. Although the hearing officer discussed this condition in the Discussion portion of the decision, the hearing officer made no findings of fact, conclusions of law, or a decision as to whether the compensable injury of (date of injury), extends to an aggravation of degenerative changes to the lumbar spine. Because the hearing officer failed to make a determination on this condition that was properly before him to determine, the hearing officer’s decision is reversed as being incomplete. See Appeals Panel Decision (APD) 131684, decided September 13, 2013; APD 150510, decided April 21, 2015. Accordingly, we reverse that portion of the hearing officer’s extent-of-injury determination as incomplete and we remand the issue of whether the compensable injury of (date of injury), extends to an aggravation of degenerative changes to the lumbar spine.

SUMMARY

We reform the Decision and Order section, Finding of Fact No. 3, Conclusion of Law No. 3, and the Decision to read “left shoulder supraspinatus tendon tear” to reflect the correct extent-of-injury condition as properly before the hearing officer.

We affirm the hearing officer’s determination that the compensable injury of (date of injury), does not extend to a cervical strain, a left knee strain, and a right knee strain.

We reverse the hearing officer’s extent-of-injury determination as being incomplete and we remand the issue of whether the compensable injury of (date of injury), extends to an aggravation of degenerative changes to the lumbar spine.

REMAND INSTRUCTIONS

On remand the hearing officer is to make findings of fact, conclusions of law, and a determination as to whether the compensable injury of (date of injury), extends to an aggravation of degenerative changes to the lumbar spine.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Department of Insurance, Division of Workers' Compensation, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
211 EAST 7TH STREET, SUITE 620
AUSTIN, TEXAS 78701-3232.**

Carisa Space-Beam
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Margaret L. Turner
Appeals Judge